

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEVEN R. RODRIGUEZ,

Petitioner,

No. CIV S-04-0725 LKK DAD P

vs.

A.K. SCRIBNER, et al.,

Respondents.

ORDER

Petitioner, a state prisoner proceeding pro se, has filed this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On April 9, 2008, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. Respondents have filed objections to the findings and recommendations. By order dated May 13, 2008, petitioner was granted a thirty day extension of time to file objections to the findings and recommendations. However, he failed to do so.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, this court has conducted a de novo review of this case. Having carefully reviewed the


1 entire file, the court finds the findings and recommendations to be supported by the record and by
2 proper analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The findings and recommendations filed April 9, 2008, are adopted in full; and

5 2. The writ of habeas corpus is conditionally granted on petitioner's claim that his
6 waiver of the right to counsel was involuntary because he was not advised by the state trial court
7 of the dangers of self representation and is denied in all other respects. Subject to the following
8 exception, proceedings in the state court leading to retrial shall be commenced within 60 days.
9 However, if either party appeals the judgment in this case, no criminal proceedings need be
10 commenced until 60 days after the issuance of the mandate following a final appellate decision or
11 the denial of a petition for writ of certiorari, whichever occurs later. In all other respects,
12 petitioner's application for a writ of habeas corpus is denied.

13 DATED: August 18, 2008.

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17 LAWRENCE K. KARLTON
18 SENIOR JUDGE
19 UNITED STATES DISTRICT COURT
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